

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOSEPHINE LINKER HART, JUDGE

DIVISION I

CA06-744

JAMES BOYSTER

March 14, 2007

APPELLANT

V.

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT
[NO. CV-2005-307 G]

TERESA SHOEMAKE

APPELLEES

HON. JAMES MARSCHEWSKI,
CIRCUIT JUDGE

APPEAL DISMISSED

James Boyster appeals from a judgment of the Sebastian County Circuit Court quieting title in a disputed strip of land adjacent to appellee Teresa Shoemake's property of record.

On appeal, Boyster argues that the trial court erred because it found that appellee Teresa Shoemake established that an old fence was a boundary line by acquiescence. We dismiss this appeal without prejudice because the record reflects neither an adjudication of all claims, nor a proper certification pursuant to Rule 54(b) of the Arkansas Rules of Civil Procedure. As the court's order is not final, we have no jurisdiction to hear the appeal. *Myers v. McAdams*, 366 Ark. 435, ___ S.W.3d ___ (2006).

In her complaint and amended complaint, Shoemake asserted a cause of action for conversion that alleged that Boyster had entered upon her property and removed “valuable moss rock having a value in excess of \$5,000,” and she prayed for judgment in that amount. However, the order appealed from does not mention the conversion claim even though it did find that Shoemake prevailed on her boundary-by-acquiescence claim.

As the supreme court held in *Myers*, Rule 2(a)(1) of the Arkansas Rules of Appellate Procedure-Civil provides that an appeal may be taken only from a final judgment, order, or decree entered by the trial court, and whether a final judgment, decree, or order exists is a jurisdictional issue that this court has the duty to raise, even if the parties do not, in order to avoid piecemeal litigation. *Id.* An order that disposes of fewer than all of the claims of all of the parties is not a final appealable order unless, pursuant to Arkansas Rule of Civil Procedure 54(b), the court makes an express determination that there is a danger of hardship or injustice, which an immediate appeal would alleviate. *Id.* When the trial court does not make the required certification, the order is not final for appellate purposes. *Id.* Finding no certification in the record, we dismiss this appeal without prejudice.

Appeal dismissed.

PITTMAN, C.J., and BIRD, J., agree.